HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION NO.14547 OF 2006

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Between:

Reddy Surya Rao

. . .Petitioner

AND

The Revenue Divisional Officer
and others

. . .Respondents

Counsel for the petitioner : Shri Kuriti Bhaskar Rao

Counsel for the respondent No.1 : Government Pleader for Panchayat Raj

Counsel for the respondent No.2 : Shri M.Prabhakara Rao

Counsel for the respondent No.3 : Shri V.V.Prabhakara Rao

Dated: 19th July, 2006

: ORDER :

PER G.S.SINGHVI, CJ

In this petition, the petitioner has prayed for issue of mandamus to the respondents to accept his nomination for the office of Sarpanch of Taruva Gram Panchayat, Devarapalli Mandal, Visakhapatnam District for the election schedule to be held in July, 2006 and also allow him to cast vote in the said election.

A perusal of the record shows that on 14.07.2006, the learned Single Judge issued rule nisi and sent for the record. Simultaneously, he directed that the matter be placed before Division Bench.

Yesterday, Shri Kuriti Bhaskar Rao, learned counsel for the petitioner made a request for out of turn hearing of this case by stating that if the matter is not heard at an early date, the purpose of filing of the writ petition would be frustrated. The request of Shri Kuriti Bhaskar Rao was accepted and the case was ordered to be listed today.

We have heard learned counsel for the parties and perused the record.

The substratum of the grievance of the petitioner lies in his assertion that even though he is a permanent resident of H.No.1-78 of Taruva Village and ration card has been issued in his favour in the month of November 2005, the concerned authority did not include his name in the electoral roll published in January 2006 for Assembly Constituency. In paragraphs 4 and 5 of the writ petition, the petitioner has averred that on coming to know of non-inclusion of his name in the voters list, he represented to Revenue

Divisional Officer and District Panchayat Officer for inclusion of his name in the supplementary voters list, but despite repeated assurance, the officers concerned did not take effective steps to include his name in the voters list showing the names of eligible persons as on 01.01.2006 and on that account, he will be deprived of his right to contest the election for the office of Sarpanch and cast vote in the forthcoming elections.

Shri Kuriti Bhaskar Rao reiterated the petitioner's grievance as set out in the writ petition and argued that non-inclusion of his client's name in the voters list should be declared violative to Section 11 of Andhra Pradesh Gram Panchayat Act, 1994 (for short 'the Act') and a writ of mandamus be issued to respondents to carry out necessary correction in the electoral roll and allow his client to participate in the forthcoming elections for the office of Sarpanch of Gram Panchayat Taruva, Devarapalli Mandal, Visakhapatnam District.

In our opinion, there is no merit in the petitioner's plea and prayer for issue of a direction to the respondents to include his name in the voters list and allow him to contest the election for the office of Sarpanch. The petitioner has not challenged the vires of Section 11 of the Act or Andhra Pradesh Panchayat Raj (Preparation and Publication of Electoral Rolls) Rules, 2006. Therefore, we shall consider the petitioner's grievance on the premise that the provisions contained in the Act and the Rules are intra vires to the power of the State Legislature and the State Government respectively.

A reading of Section 11 of the Act shows that the electoral roll for Gram Panchayat is required to be prepared by the person authorized by the State Election Commissioner in such manner by reference to such qualifying date as may be prescribed and the electoral rolls shall come into force immediately upon its final publication in accordance with the rules made by the State Government in this behalf. The draft of the electoral roll for the Gram

Panchayat shall consist of such part of the electoral roll for the Assembly Constituency published under Representation of People Act, 1950 as revised or amended under the Act, up to the qualifying date. In terms of proviso, any person aggrieved by non-inclusion of his name or a wrong inclusion of some persons can lodge a claim before Electoral Registration Officer under Sections 22 or 23 of the Representation of People Act, 1950 and any order passed by Electoral Registration Officer on such objections and/or claims has to be reflected in the electoral roll of Gram Panchayat up to the date of election notification.

In response to the Court's query, Shri V.V.Rao, learned counsel appearing for State Election Commission (though State Election Commission has not been impleaded as a party to the writ petition) stated that by notification dated 01.05.2006, the State Election Commissioner had authorized District Panchayat Officers to prepare and publish the electoral rolls for Gram Panchayat elections. He also gave out that electoral rolls for the panchayat elections were published on 08.05.2006. This statement has not been contested by the counsel for the petitioner.

The petitioner has neither averred in his affidavit nor any evidence has been produced before the Court to show that he had lodged claim for inclusion of his name in the electoral rolls after 08.05.2006. During the course of arguments, learned counsel for the petitioner could not draw our attention to the relevant pleadings or any document to show that after 8-5-2006 his client had lodged the claim before the Electoral Registration Officer under Sections 22 or 23 of the Representation of People Act, 1950. Therefore, the petitioner's prayer for issue of a mandamus to the respondents to include his name in the electoral rolls of the Village Taruva and allow him to contest election for the office of Sarpanch of Gram Panchayat, Taruva cannot be

accepted.

With the above observations, the writ petition is dismissed.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

Date: 19.07.2006

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